

No. 14/13/87-6Lab./305.- In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon in respect of the dispute between the workman and the management of M/s Ansal Properties & Ind. Pvt. Ltd Now Delhi versus Asheshwar Parsad.

IN THE COURT OF MRS. NIRMAL YADAV, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GURGAON.

Reference No. 12 of 1991.

Between

SHRI ASHESHWAR PARSHAD C/O SHRI MANGAL YADAV C/O SHRI P. S. RAO, LABOUR LAW ADVISER, SHANTI NAGAR, NEAR NATIONAL HIGH WAY NO. 8, GURGAON AND THE MANAGEMENT OF M/S. ANSAL PROPERTIES AND INDUSTRIES PVT LTD, 115 ANSAL BHAVAN, 16 KASTURBA GANDHI MARG, NEW DELHI.

Present :

Shri P. R. Rao, for the workman.

Shri S. K. Goswami for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub Section (i) of Section 10 of the Industrial Disputes Act, 1947 (in short "the Act"), the Governor of Haryana referred the following dispute, between the parties, mentioned above, to this Court, for adjudication,—vide Haryana Govt. Labour Deptt. order No. 374-79, dated 2nd January, 1991 :-

Whether termination/retranchment of services of Shri Asheshwar Parshad is just and legal ? If not, to what relief is he entitled ?

2. The facts according to the petitioner are that he was appointed on the post of Pump Operator Grade I w.e.f. 3rd January, 1985 of the salary of Rs. 1080 p.m. It is further stated that the management illegally terminated petitioner's service w.e.f. 19th May, 1990 in violation of the mandatory provisions of the Industrial Disputes Act. Management appointed Shri Abhai Ram after terminating petitioner's petitioner service other persons junior to the petitioner are still working with management.

3. Claim of the petitioner is contested by the management stating that the reference is bad in law. It is stated that petitioner was employed w.e.f. 1st January, 1985 and his wages at the time of termination were Rs. 1085 and his services were terminated w.e.f. 19th May, 1990 A. N. as per terms of his service contract. It is stated that his employment was made till the completion of work assigned to him on Palam Udyog Project. On the completion of the said work petitioner's service stood automatically terminated vide letter dated 11th May, 1990. Petitioner was informed that his service were no longer required on account of abolition of the post. He was advised to hand over the charge and to settle his accounts with the management. It is further stated that petitioner did not comply with the direction given in the above mentioned letter, therefore, his services were terminated w.e.f. 19th May, 1990. It is stated that management is ready to make payment of retranchment benefits. Management denied that Shri Abhai Ram has been appointed on the post on which petitioner was working.

4. In view of the pleadings of the parties, following issues were framed by me on 20th February, 1992 :—

1. Whether the reference is bad in law ?

2. Whether termination/retranchment of services of Shri Asheshwar Parshad is just and legal? If not, to what relief is he entitled ?

5. I have heard learned authorised representatives of the parties. My findings on the issues framed are as under :—

Issue No. 2:

6. Learned A.R. of the management argued that reference is bad in law as this Court has no jurisdiction to adjudicate the reference. Argument of the learned A.R. has no force. It is admitted case of the parties that petitioner worked in Palam Udyog Project which is situated in Gurgaon and his services were also terminated from the said project. This fact finds support from the termination letter Ex. M2, wherein, address of the petitioner is mentioned as under :—

Shri Asheshwar Prasad,  
Pump Operator,  
Palam Udyog Project,  
through Add. G.M. (C) III

Since the place where petitioner worked is situated in Gurgaon and his services were also terminated from same place, Labour Court, Gurgaon has jurisdiction to adjudicate the reference. Therefore, this issue is decided against the management.

## Issue No. 1

7. In order to prove this issue, management produced Ram Avtar Gupta as MW1, who stated that petitioner was appointed w.e.f. 1st January, 1985 as Operator Grade I in Palam Udyog Project vide appointment letter Ex. M1 and his services were terminated vide letter Ex. M2. According to him, post on which petitioner was employed was abolished, therefore, petitioner's services were no longer required. His services were terminated in accordance with the terms of the appointment letter. He further stated that petitioner was offered retrenchment benefits, but he did not accept the same. He further stated that petitioner did not hand over the charge to the respondent management. He denied the suggestion that any person junior to the petitioner is working or Shri Abhai Ram has been appointed in place of petitioner. He further stated that Palam Udyog Vihar Project has not been completed. In cross examination, witness stated that in the allotted houses water supply is in working condition. The project has got a pump set and Pump Operators are working in the project. Witness admitted that retrenchment benefits were not sent by post as petitioner had not handed over the charge. He further stated that he could not tell as to what articles were under the charge of the petitioner. He did not produce any register, which could show the articles in charge of the petitioner.

8. On the other hand, workman reiterated that he continuously worked with the respondent management from the date of appointment till 19th May, 1990 when his services were terminated without assigning any reason. According to him, he did not have any article of the management in his charge. Management did not give any notice or pay in lieu thereof, nor retrenchment compensation was paid to him. He further stated that supply of water in the houses situated in Palam Udyog Project is still in working condition. Management appointed Shri Abhai Ram after termination of petitioner's service. When cross examined, petitioner denied that the post of Pump Operator was abolished on account of completion of project in Palam Udyog Project. According to him, Pump Operators are still working with the respondent management and the work in Palam Udyog Project has not been completed. He further stated that he is not working anywhere after termination of his services.

9. Learned A.R. of the management argued that petitioner's services were terminated in accordance with the terms mentioned in clause III of the appointment letter Ex. M1, wherein, it was specifically mentioned that petitioner's service would be till the completion of work assigned to him in the Palam Udyog Project. This plea of the management is contradicted by the statement of Ram Avtar Gupta MW1, wherein he categorically stated that Palam Udyog Vihar Project has not been completed. He further admitted that Pump Set is in existence and Pump Operators are working in Palam Udyog Project. He further admitted that water supply to the houses in Palam Udyog Project is in continuous existence. The management has not produced any documentary evidence to show that work of the Pump Operator in Palam Udyog Project is not required, rather, it is admitted that Pump Operators are working in Palam Udyog Project. From the above facts it is admitted that the parties that petitioner had continuously worked with the management from 1st January, 1985 to 19th May, 1990. According to management petitioner was offered retrenchment benefits, but he did not accept. This plea of the management is not substantiated by any evidence on record. In letter Ex. M2, it is only mentioned that petitioner shall be paid the following dues in full and final settlement of his accounts. It is also mentioned that petitioner should produce the clearance certificate, so that accounts department could be advised to settle his account. From the above mentioned facts, it is apparent that management never offered mandatory benefits to the petitioner at the time of termination of his service. From the above discussion, it is confirmed that the management illegally terminated petitioner's service. Consequently, petitioner Asheshwar Parshad is ordered to be reinstated into his job with continuity of service and full back wages. Reference is answered and returned accordingly with no order as to cost.

Dated 2nd March, 1994

NIRMAL YADAV,

Presiding Officer,  
Industrial Tribunal-cum-Labour Court,  
Gurgaon.

Endst No. 515-16, dated 31st March, 1994.

A copy is forwarded to :—

1. The Labour Commissioner, Haryana, Chandigarh.
2. The Labour Officer, Gurgaon.

NIRMAL YADAV,

Presiding Officer,  
Industrial Tribunal-cum-Labour Court,  
Gurgaon.